

**WEST VALLEY CITY
BOARD OF ADJUSTMENT
MINUTES**

January 6, 2010

This meeting was called to order at 6:00 p.m. by Chairperson, Necia Christensen, at 3600 Constitution Boulevard, West Valley City, Utah.

WEST VALLEY CITY BOARD OF ADJUSTMENT MEMBERS

Russell Moore, Scott Spendlove, Sandy Naegle and Necia Christensen

Those Absent: Sioeli Uluakiola and Mark Farnsworth

WEST VALLEY CITY PLANNING DIVISION STAFF

Hannah Thiel and Karon Jensen

WEST VALLEY CITY LEGAL DEPARTMENT

Claire Gillmor

AUDIENCE:

Approximately two (2) people were in the audience.

B-17-2009
Jerry and Tammy Whitlock
6997 West 3500 South

Hannah Thiel presented the application.

Jerry and Tammy Whitlock have filed a request with the West Valley City Board of Adjustment seeking a variance from Section 7-1-103(1) of the West Valley City Land Use Development and Management Act. This section requires accessory buildings to be smaller in height and area than the primary residence. The applicants are requesting a variance from this requirement to build a garage on their property that currently does not have a garage. The property does have a home that is smaller in area than the City's current minimum required home size. The proposed garage is subordinate in height to the home, so the applicants are seeking a variance from the subordinate area requirement of the ordinance.

BACKGROUND:

WEST VALLEY CITY GENERAL PLAN recommends low density residential land uses.

- ☐ The subject property is known as Parcel Number 14-34-126-025. The property is not incorporated into any subdivision. The home was built under Salt Lake County's jurisdiction in 1925 with no garage onsite.
- ☐ The applicants have not currently built the proposed garage. Upon contacting the City regarding setback and building regulations, staff informed the applicant that accessory buildings that are larger in height and area to a home are in violation of City standards. They did not wish to attach the garage to their home as the property is not wide enough next to their home to do so. After discussing these concerns and outlining the variance procedure, the applicant determined that they would request a variance.
- ☐ The applicant would like the Board of Adjustments to consider that the home is smaller than the current minimum home size in the City and it does not have an attached garage. When staff reviews accessory building permit applications, the area size of the home is measured by the size of the footprint, including the attached garage (where this home has none). The minimum exterior measurement of the required 2 car garage for new homes in West Valley City is 24 feet x 24 feet. The lot width (73') is less than the current minimum lot width in the 'R-1-8' zone (80'). As the lot is narrow where the home is located, the applicant would not be capable of building an attached two car garage.
- ☐ The property in question is 0.59 acres. The parcel has a frontage of 73 feet along 3500 South, a frontage of approximately 55 feet in the rear along Colby Avenue, and a depth of 300 feet. Neighboring properties have similar frontages although neighboring properties are also significantly smaller in size.
- ☐ The applicant has noted that all zoning regulations shall be met and a building permit will be obtained if this variance is approved. The proposed garage will meet the maximum area

requirement of covering no more than 25% of the rear yard; the proposed accessory building will only cover 11% of the rear yard. The proposed garage will also meet minimum setback requirements if a variance for the access width is granted.

- ☐ The applicant has submitted the criteria to the Board addressing the variance criteria in preparation of the hearing and is enclosed.

Applicant:

**Jeremy Whitlock
6997 West 3500 South**

Mr. Whitlock indicated that he is requesting a variance from the subordinate area requirement of the zoning ordinance and would like to construct an engineered steel garage to be used for RV storage. The applicant indicated that they do not have an attached garage on their property and said that they would like to construct a new 1800 square foot garage. The proposed structure would be larger in height and area than our existing home and we went to the City for further information and to see if we could obtain a building permit. Planning staff indicated that accessory buildings that are larger in height and area to a residential dwelling would not be in compliance with West Valley City's ordinances.

Mr. Whitlock explained that they are unable to build an attached garage on their property due to a lack of sufficient width adjacent to their home. I believe that there is a hardship associated with our property. Our home is only 1,100 square feet and sits on a .59 acre parcel which I believe would easily support a garage of this size. Due to the fact that the lot is only 73 feet wide, there is not adequate space for a double car garage on our property. The proposed garage is larger in height and area than our home and does not meet the City's ordinance requirements regarding secondary structures.

The applicant addressed the five variance criteria:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.
 - a. The unreasonable hardship is associated with the land size and home size we own. The hardship is related to our property in that we have a rather small dwelling for the size of lot.
2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.
 - a. Our property is .59 acres (27,500 square feet) and would support a garage of this size. However our home is an old small dwelling that is only 1100 square feet. Some of the homes in our area are much larger on smaller properties. Our

property is also unique in shape. The frontage is 73 feet which limits our ability to have a 2 car garage on the side of the dwelling. I understand that when the staff reviews square footage requirements for accessory structures, they count the entire footprint of the existing dwelling to determine the size of the accessory building. If we had a 2-car garage like many of our neighbors, it would allow our detached garage to be closer to the size that we have requested.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.
 - a. Other properties in our area have detached garages. The property through the block has a 50 by 50 building (2500 square feet).
4. The variance will not substantially affect the general plan and will not be contrary to the public interest.
 - a. The granting of the variance will not affect the general plan as the general plan designates this area as medium density residential. It will not be contrary to the public interest because of its location. The garage will be built with quality materials that will not deteriorate with weather and will meet all City codes. The garage will be located to the rear of the dwelling next to an existing street, so there will be no impact to neighborhood properties.
5. The spirit of the zoning ordinance is observed and substantial justice done.
 - a. The spirit of the zoning ordinance will be observed because we will have a large garage and will be able to improve our property. Substantial justice would be done because we will be able to safely store vehicles, tractors and RV's out of the elements in a neat and orderly manner and make the property look neater and cleaner. This will help avoid code enforcement issues.

Discussion:

1. Literal enforcement of the zoning ordinance would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of the zoning ordinance.

Mrs. Christensen stated originally this property was probably farm land. However, I do not believe there is an unreasonable hardship that meets this criteria.

Mr. Spendlove agreed that he could not see an unreasonable hardship, although he thought that the applicant does meet with some of the other variance criteria.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same zoning district.

Mrs. Christensen remarked I believe the applicant meets the second criteria and that he has a unique lot.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same zoning district.

Mrs. Christensen noted that there are several properties in the neighborhood that have larger size garages on their lots.

Mr. Moore responded that the applicant has alternatives for building a garage on his property.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

Mr. Spendlove pointed out that the ordinance requires secondary buildings be subordinate in size to the residential dwelling unit, thus it is contrary to public interest and would affect the general plan.

5. The spirit of the zoning ordinance is observed and substantial justice done.

Mr. Spendlove indicated that due to the secondary building being larger in size than the dwelling size the spirit of zoning ordinance would not be observed and substantial justice would not be served.

Mrs. Christensen summarized that she did not believe that the applicant has sufficiently addressed the five variance criteria that are needed to grant a variance.

There being no further discussion regarding this application, Chairperson Christensen called for a motion.

Motion #1

Sandy Naegle stated I move that we approve the variance request for application, B-17-2009, based on the five variance criteria that have been presented by the applicant.

Motion dies – lack of second

Motion #2

Russ Moore stated I move that we deny application, B-17-2009, requesting a variance from the subordinate area requirement of the ordinance based on the fact that the ordinance dictates the size of outbuildings cannot exceed ordinance height parameters. The proposed structure would be intrusive and in particular to the neighbors located south of the property.

Mr. Spendlove seconded the motion.

A roll call was taken.

Mr. Uluakiola	AB
Mr. Moore	yes
Mr. Spendlove	yes
Ms. Naegle	no
Mr. Farnsworth	AB
Mrs. Christensen	yes

Motion carries - majority vote

____ - B-17-2009- ____

OTHER

The Board of Adjustment Study Session minutes for **December 2, 2009** were **approved**.
The Board of Adjustment Public Hearing minutes for **December 2, 2009** were **approved**

There being no further business the meeting adjourned at 6:25 p.m.

Karon Jensen, Administrative Assistant